THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.16627 of 2006

Dated:09.08.2006

Between:

Smt.Thota Snehalatha, W/o.Babu Ram.

…Petitioners

and

The State of A.P., rep.by its Secretary to Govt., (Revenue), Secretariat, Hyderabad, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.16627 of 2006

ORDER:

In this writ petition the petitioner alleges that she purchased Flat No.F-20 in 7th and 8th Floors of Block-F in the apartments named Sea-shells in T.S.No.1027 (part) of Waltair Ward, Visakhapatnam Municipal Corporation area under a registered sale deed 04.06.1996 from M/s.Rajalaxmi Associates. The petitioner alleges that when she intended to sell the said property, she came to know that the property is in dispute with the Government and that Government is claiming those lands, by reason of which registering authorities are not registering any transaction pertaining to the said property. The reason for the same was that the Government vide Notification in G.O.Ms.No.657, dated 08.10.2001, declared the registration of the land in Survey No.1027 of Waltair Ward, Visakhapatnam, as opposed to public policy. The petitioner therefore, filed the present Writ Petition, challenging the said Government Order.

In **State of Rajasthan v. Basant Nahata**[1]**,** the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires.* Following the same, a Division Bench of this Court in its Judgment, dated 07.12.2005 in W.P.Nos.14099 of 2003 and batch struck down Section 22-A of the Registration Act as applicable in State of Andhra Pradesh. Therefore, the impugned notification cannot be sustained. Further, in subsequent Judgment in W.P.No.17325 of 2005 and batch, dated 20.02.2006, a Division Bench of this Court while invalidating similar notification observed as under.

> As a sequel to the above, G.O.Ms.No.810, dated 14.10.2004, is also quashed. However, it is made clear that registration of the documents of the petitioners would remain subject to the final adjudication by the Supreme Court. This would necessarily mean that if the appeal filed by the State is allowed by the Supreme Court, the registration of the

documents of the petitioners shall stand automatically nullified.

Following the same, this writ petition is allowed observing that any registration of the documents presented by the petitioner would be subject to the adjudication by the Supreme Court, and if ultimately, the Supreme Court allows the Appeal filed by the Government of Andhra Pradesh, the registration of the documents would stand automatically nullified. Further, if the property (land) in T.S.No.1027 (part) is claimed by the Government, it is always open to the Government to take appropriate action under law. No costs.

(V.V.S.RAO, J)

09.08.2006
Note: Issue C.C by tomorrow.
B/o.
vs

[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456